

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7733 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes
2. To be referred to the Reporter or not? No
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

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G S R T C

Versus

NARENDRA V TRIVEDI

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Appearance:

MR SN SHELAT for Petitioner

MR MC KAPADIA for Respondent No. 1

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CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 06/09/96

ORAL JUDGEMENT

1. The petitioner Corporation challenges the award of the Industrial Tribunal dated 16th April, 1988 directing that the respondent workman should be reinstated to his original position of badli worker and that he shall be paid 50 per cent of the wages for the period from the date his name was removed till he is

reinstated.

2. Since there was no interim relief against reinstatement, the respondent employee has already been reinstated in his original position. The reference was made under Sec. 10(1) of the Industrial Disputes Act, 1947 on 26th June, 1985 to the Tribunal in respect of the demand of the respondent employee to set aside the order of the Corporation dated 5.7.1984 removing the name of the respondent employee from the waiting list of badli worker. According to the petitioner, the respondent employee had caused an accident on 28.5.1984 while he was driving a bus of the Corporation negligently and, therefore, his name was removed from the list of badli worker on 5.7.1984.

3. Admittedly, no enquiry was held before removing the name of the respondent employee as badli worker on the ground that he had caused an accident to occur by his negligent driving. Even though the respondent employee was a badli worker and, therefore, the Discipline and Appeal procedure was not required to be followed, the order striking off his name as badli worker having been passed on the ground that the respondent employee had caused accident to occur due to his negligent driving clearly stigmatized him and therefore it was necessary to follow the principles of natural justice by giving him hearing before passing any adverse order against him. This proposition has been recognised by a Division Bench of this Court in GUJARAT STATE ROAD TRANSPORT CORPORATION v. CHANDULAL reported in 34(1) GLR 442. Therefore, the Tribunal's order reinstating the respondent employee to his original position of badli worker was justified.

4. As regards payment of back wages, it is not as if that the Tribunal has awarded 50 per cent of back wages without any basis. There is evidence on record of the respondent employee to the effect that he used to get work as badli worker for about 27 to 28 days in a month. Therefore, keeping that in view, the Tribunal has awarded 50 per cent of back wages. This Order cannot be said to be vague and the ratio of the decision in EXECUTIVE ENGINEER v. PUNABHAI GOVINDBHAI, 1993 (1) GLH 782 on which reliance was sought to be placed on behalf of the petitioner cannot be invoked against this part of the order.

5. Under the above circumstances, there is no warrant for interference with the impugned award and the petition is rejected. Rule is discharged with no order as to costs. Interim relief stands vacated.

